

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 61 OF 2018
(Subject – Transfer)**

DISTRICT : DHULE

Shri Bipin s/o Ananda Patil,)
Age: 45 years, Occu. : Service)
(As Police Head Constable, Police)
Headquarter, Dhule))
R/o. Plot No. 37, Behind Manjushree Gas)
Godown, Navjeevan Colony, Nakane Rd.)
Deopur, Dhule.) .. **APPLICANT**

V E R S U S

1) **The Superintended of Police,**)
Dhule.) .. **RESPONDENT**

APPEARANCE : Shri A.S. Deshmukh, Advocate for the
Applicant.

: Shri D.R. Patil, Presenting Officer for
Respondent.

CORAM : JUSTICE M.T. JOSHI, VICE CHAIRMAN.

DATE : 12.10.2018.

O R A L - O R D E R

1. Heard Shri A.S. Deshmukh, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for respondents.

2. By the present Original Application, the applicant is claiming following reliefs :-

“A. This Original Application may kindly be allowed thereby quashing & setting aside the impugned orders of transfer of the applicant dtd. 15.02.2017 (Annex. A-2) and of May 2017 (Annex. A-4) issued by the respondent.

B. This Original Application may kindly be allowed thereby directing the respondent to repost the applicant at the Mohadi Police Station and permit him to discharge duties there.”

3. It is an admitted fact that the present applicant was transferred mid-tenure. The minutes of the meeting of the Police Establishment Board dated 22.05.2017 (Exhibit R-1, page no. 62) would show that so far as the applicant is concerned he was transferred on “Administrative ground”. In the additional affidavit in reply, it was explained that since the complaint was received against the present applicant, a Departmental Proceedings was contemplated and ultimately on 07.09.2017 i.e. after the impugned order a Departmental Enquiry was initiated against the present applicant and therefore, according to the concerned respondent, the applicant was transferred to see that the present applicant away from the place of incident thereby taking care that he would not try to influence the witnesses.

4. Learned Advocate for the applicant placed reliance on the ratio of Hon’ble High Court in case of **Kishor Shridharrao**

Mhaske Vs. Maharashtra OBC Finance & Development Corporation & Ors. in **W.P. No. 5465 of 2012** it has been held that mere reasoning that the transfer is on administrative ground would not be compliance of Section 4 (5) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (in short “the Transfer Act 2005”).

5. It appears that the concerned respondent failed to give details in the transfer order as to why the present applicant is transferred. It is to be noted that in case any employee is to be proceeded for serious Departmental disciplinary action, the administration has two options either suspended the employee or to transfer from the said post, in order to take care that the employee would not be able to influence Departmental Enquiry. It appears that the concerned respondent had resorted to milder option of transferring the present applicant. The only fault of the respondent was that reasons were not included in the order, though it appears those were present. In the circumstances, following order:-

ORDER

1. The Original Application is allowed without any order as to costs.

2. The order of the present applicant Annexure A-4 (page no. 25) is hereby quashed and set aside to the extent of the present applicant with liberty to take such steps as may be deemed fit according to law.

PLACE : AURANGABAD.

DATE : 12.10.2018.

VICE CHAIRMAN

KPB S.B. O.A. No. 61 of 2018 mtj 2018 dies